

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

21-CR-138 (JLS) (HKS)

DIAMOND ALLEN,

Defendant.

DECISION AND ORDER

Defendant Diamond Allen, along with two codefendants, is charged with various drug-related crimes in a Superseding Indictment returned on July 27, 2022. *See* Dkt. 38. The case has been referred to United States Magistrate Judge H. Kenneth Schroeder, Jr. to hear and determine, and report and recommend on, all pre-trial proceedings under 28 U.S.C. §§ 636(b)(1)(A) and (B). *See* Dkt. 4.

On March 17, 2023, Allen filed an omnibus pretrial motion seeking (1) to compel discovery; (2) suppression of certain evidence; (3) disclosure of evidence pursuant to Rules 404(b), 608, and 609 of the Federal Rules of Evidence; (4) disclosure of *Brady* material; (5) disclosure of *Jencks* Act material and (6) preservation of rough notes. Dkt. 79. Allen also requested joinder in all motions filed by his codefendants, as well as leave to file additional motions. *Id.*

On April 5, 2023, the Government responded in opposition Allen's omnibus motion and cross-moved for reciprocal discovery. Dkt. 93. Judge Schroeder heard argument on May 10, 2023. He thereafter granted in part and denied in part

Allen's [79] omnibus motion, but reserved decision on the suppression issues. *See* Dkt. 100.

On November 6, 2023, Judge Schroeder issued a Report, Recommendation, and Order ("R&R"), recommending that this Court deny Allen's "motion seeking to suppress the use of evidence seized pursuant to a number of specified search warrants" and further deny Allen's "motion seeking to suppress the use of evidence seized pursuant to a 'parole search.'" Dkt. 126. Neither party filed objections, and the time to do so has expired.

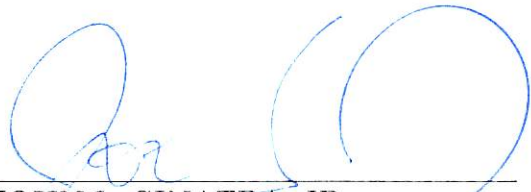
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Criminal Procedure 59 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so, this Court reviewed Judge Schroeder's R&R and the relevant record. Based on that review, and absent any objections, the Court accepts and adopts Judge Schroeder's recommendation.

For the reasons stated above and in the R&R, the court DENIES Allen's motions seeking (1) suppression of evidence seized pursuant to a number of specified search warrants and (2) suppression of evidence seized pursuant to a "parole search." *See* Dkt. 79 at 3-6.

SO ORDERED.

Dated: December 5, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE